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IN THE

Supreme Court of the United States

OCTOBER TERM, A. D. 1926.

Number [redacted]inal 11

STATE OF NEW YORK,
Complainant.

vs.

STATE OF ILLINOIS and THE SANITARY DISTRICT OF CHICAGO,
Defendants.

MOTION OF DEFENDANTS TO STRIKE PARAGRAPH III OF THE BILL OF COMPLAINT.

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Attorney General of Illinois,
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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, A. D. 1926.

Number 14 Original.

STATE OF NEW YORK,
Complainant,

vs.

STATE OF ILLINOIS and THE SANITARY DISTRICT OF CHICAGO,
Defendants.

MOTION OF DEFENDANTS TO STRIKE PARAGRAPH III OF THE BILL OF COMPLAINT.

Now come the defendants, The State of Illinois and The Sanitary District of Chicago, and move the Court that an order be entered herein striking from the bill of complaint in said cause, paragraph numbered III thereof, upon the following grounds:

1. Paragraph III of said bill of complaint does not present a case or controversy appropriate for the exertion of judicial power, but only an abstract question respecting the supposed authority of the State of New York in dealing with water power upon the Niagara River in the State of New York and upon the St. Lawrence River in the international section of said river.

2. There is no allegation in said bill of complaint that any water power plant now existing has been or will be injured by the diversion complained of, or that the cessation of said diversion will benefit any such water power plant or increase the amount of water power that may be developed by any such plant or plants.

3. There is no allegation in said bill of complaint that any defined project for the development of water power on the

Niagara and St. Lawrence Rivers has been or will be injured by the diversion complained of, or that the cessation of said diversion will benefit any such project or increase the amount of water power that may be developed by any such project.

4. There is no allegation that all of the power from water now flowing in the Niagara River has been or ever will be developed.

5. The Niagara and St. Lawrence Rivers are international waters, the use of which waters for power development requires the consent of Canada and the United States Government, and there is no showing that consent of either one or both of said governments has been obtained as to any future development of water power thereon.

6. The amount of water that may be used and diverted from the Niagara River for water power development is the subject of a treaty now existing between the United States and Great Britain, and it is not alleged that the full use of said waters under said treaty is in any way affected or impaired because of the diversion complained of.

Respectfully submitted,

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